**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE B.PRAKASH RAO**

**WRIT PETITION NO : 161 of 2004**

Between:

1 Pangi Rama Rao, s/o late Palsu,
Working at TWAUPS, as a Cook and Kamati, Paderu,

Paderu Mandal,
Visakhapatnam District
2 Kaverala Matchanna, s/o late Bojju Dora,
Working at TWAH School, as a Cook and Kamati,

Pedaguda village of Muchigiput Mandal,
Visakhapatnam District
3 Pattala Balanna, s/o late Pandanna,
Working at TWUPA School, as a Cook and Kamati,

Paderu, Paderu Mandal,
Visakhapatnam District
4 Bakuri Rajulamma, W/o late Narsharaju
Working at TWAUP School, as a Cook and Kamati,

Paderu, Paderu Mandal,
Visakhapatnam District
5 Setty Kasulamma, w/o late Narayana,
Working at TWAUPS School, as a Cook and Kamati,

Paderu, Paderu Mandal,
Visakhapatnam District

**..... PETITIONERS**

AND

1 The Project Officer, ITDA, Paderu, Visakhapatnam District
2 The District Tribal Welfare Officer, Paderu,

Visakhapatnam District.
3 The Collector, Visakhapatnam, Chairman ITDA,

Visakhapatnam, Visakhapatnam District
4 The Commissioner Tribal Welfare,

Samkshema Bhavan, Masab Tank,
Hyderabad
5 A.P.Tribal Welfare Ashram & Residential Educational Institutions

Society, rep by its Member Secretary,
IInd Floor, Telugu and Sankshema Bhavan, Masab Tank,
Hyderabad

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in not following the seniority based upon the date of initial appointment while absorbing and regularising the service of daily wage workers working in Tribal Welfare Hostels and Ashram Schools, Visakhapatnam district as unconstitutional, illegal and consequently direct the respondents to follow the seniority as per the list prepared by District Tribal Welfare Officer after declaring that the daily wage labourers including the petitioners in Tribal Welfare Hostels, Ashram Schools are eligible to be regularized based upon the seniority list only and direct the respondents to absorb and regularize the petitioners in the posts they are working

**Counsel for the Petitioners :MR.K.S.MURTHY**

**Counsel for the Respondents No.: GP FOR SOCIAL WELFARE**

**And**

**CONTEMPT CASE NO.1132 OF 2004**

**IN**

**W.P.M.P.No.233 of 2004**

**IN**

**W.P.No. 161 of 2004**

**Between:**

1 Pangi Rama Rao, s/o late Palsu,
Working at TWAUPS, as a Cook and Kamati,Paderu,
Paderu Mandal,
Visakhapatnam District

… Petitioner

And

1 Rizvi, S/o. Not known to the petitioner,

The Project Officer, ITDA, Paderu, Visakhapatnam District

2 M.A. Rasheed,

S/o. Not known to the petitioner,

District Tribal Welfare Officer, Paderu,
Visakhapatnam District.

3 Praveen Prakash,

S/o. Not known to the petitioner,

The Collector, Visakhapatnam, Chairman ITDA,

Visakhapatnam, Visakhapatnam District

4 Manmohansingh,

S/o.Not known to the petitioner,

The Commissioner Tribal Welfare,

Samkshema Bhavan, Masab Tank,
Hyderabad

5 A.P.Tribal Welfare Ashram & Residential Educational Institutions

Society, rep by its Member Secretary,
IInd Floor, Telugu and Sankshema Bhavan, Masab Tank,
Hyderabad

**… Respondents**

Application under Section 10 to 12, 14, 15 and 16 of Act 70 of 1971 to punish the respondents for Contempt of Court for willfully disobedience of this Hon'ble Court Order dated 06-01-2004 in WPMP No.233/2004 in W.P.No. 161/2004 passed by Hon'ble Justice V.V.Ramulu under Section 10 to 12 of Contempt of Courts Act and pass such other order as proper and deemed fit in the interest of justice.

**Counsel for the petitioners: Mr. K.S.Murthy**

**Counsel for the respondents: G.P.for Social Welfare**

**The Court at the stage of admission made the following:**

**COMMON ORDER:**

Heard both sides.

Since both the cases viz., Writ Petition No.161 of 2004 and Contempt Case C.C.No.1132 of 2004 are connected, they have been taken up together for disposal.

In the writ petition, the petitioners, who claimed to be working as Cook and

Kamati, seek a writ of Mandamus, declaring the action of the respondents in not following the seniority based upon the date of initial appointment, while absorbing and regularising the service of the daily wage workers working in Tribal Welfare Hostels and Ashram Schools, Visakhapatnam district, as unconstitutional, illegal and further for a direction to follow the seniority as per the list prepared by the District Tribal Welfare Officer.

The case of the petitioners in brief is that they have joined in service on various dates as mentioned in their affidavits and they will be entitled for regularization of services as per G.O.Ms.No.212, dated 22-04-1994. Further it is also their case that while regularization, the respondents have not followed the seniority in accordance with the date of appointment and also the service, which they have put up and also, the respondents have taken the recourse of pick and choose policy in selecting the candidates for regularization. Hence the writ petition.

In the writ petition, this Court has granted interim direction in W.P.M.P.No. 233 of 2004 dated 06-01-2004, to continue the services of the petitioners, in which they were working, on par with the regular workers. As the same is not complied with and no salaries have been paid, the petitioners have filed the present contempt case C.C.No.1132 of 2004.

Contesting the claim of the petitioners, the case of the respondents is that having regard to the fact that G.O.Ms.No.212, dated 22-04-1994, as sought to be relied on by the petitioners, is no longer in force and therefore, they cannot make any claim based on the said G.O. Further, for other reasons as shown, they are not entitled for regularization.

Considering the submissions made and also on perusal of the material, the only question that arises for consideration is as to whether the petitioners are entitled to claim for regularization either in G.O.Ms.No.212 dated 22-04-1994, or by any other subsequent proceedings issued by the State Government.

There is no dispute to the fact that the petitioners have been working in the Tribal Welfare Hostel in the said posts and there is no complaint against them whatsoever. Further, there is also no dispute, that the respondents have taken up the proceedings for regularization of services and some of them have already been regularized, whereas, the case of the petitioners is remained unconsidered. The complaint of the petitioners is that no proper seniority has been followed while

regularizing their services and it is only on the whims and fancies of the respondents, the employees are being selected for the purpose of regularization. Further, it is also their case that as to why the petitioners' case remained unconsidered.

Admittedly the petitioners are quite seniors to the persons who have been regularized. The learned Counsel appearing for the petitioners also submits that the aforesaid G.O.Ms.No.212 dated 22-04-1994, has also undergone amendment by fresh proceedings issued by the Government in G.O.Ms.No.231 dated 16-10-1998, extending the period. In view of the same, the petitioners' case squarely falls well within the period, as contemplated therein, therefore, there is no justification for denial of their regularization. In regard to the said aforesaid amendment in G.O.Ms.No.231, dated 16-10-1998, there is no denial or any other explanation forthcoming on behalf of the respondents herein.

In the circumstances, it has to be held that under both the G.O.Ms.No.212 dated 22-04-1994, and also the subsequent G.O.Ms.No.231 dated 16-10-1998, petitioners case squarely falls within the parameters for the purpose of considering their case for regularization. Further, there being no such denial for the regularization to some of the employees who have been juniors to the petitioners, it cannot be said that such an inaction is valid. Therefore, it is necessary for the respondents to follow the seniority list while considering the regularization.

In the circumstances, the writ petition is allowed directing the respondents herein, to regularize the services of the petitioners following the seniority of similarly placed employees, and the petitioners shall be continued in service and they shall be paid regular salaries to which they are entitled to under law, within a period of eight weeks from the date of receipt of a copy of this order.

Having regard to the final orders passed in the writ petition, no orders are necessary in the contempt case and accordingly, the contempt case is closed.

---

**B. PRAKASH RAO, J.**

Dt: 30-12-2004

Rns/ka.

To

1 The Project Officer, ITDA, Paderu, Visakhapatnam District

2 The District Tribal Welfare Officer, Paderu,
Visakhapatnam District.

3 The Collector, Visakhapatnam, Chairman ITDA,

Visakhapatnam, Visakhapatnam District

4 The Commissioner Tribal Welfare,

Samkshema Bhavan, Masab Tank,
Hyderabad

5 A.P.Tribal Welfare Ashram & Residential Educational Institutions

Society, rep by its Member Secretary,
IInd Floor, Telugu and Sankshema Bhavan, Masab Tank,
Hyderabad

6 Two CCs to G.P.for Social Welfare, High Court Buildings,

High Court of A.P., Hyderabad.

7 Two CD copies